

CHAPTER 25

COMPUTATION OF FEDERAL INCOME TAX WITHHOLDING2501 WAGES SUBJECT TO WITHHOLDING OF FEDERAL INCOME TAX

250101. Taxable pay, as computed under provision of Chapter 24, is subject to withholding of federal income tax.

250102. The gross monthly amount of the annuity (RSFPP/SBP), or the monthly amount of the SBP annuity remaining after it has been reduced by a Dependency and Indemnity Compensation (DIC) award and/or Social Security offset, is taxable income and is subject to FITW unless the annuitant elects no withholding. See paragraphs 410201 and 410202 and paragraphs 520201 and 520202 of this volume.

2502 RATES FOR REGULAR AND ADDITIONAL WITHHOLDING OF FEDERAL INCOME TAX

250201. Federal income tax will be withheld in accordance with Treasury Department Circular E (reference (dz)).

250202. A member may authorize an additional monthly amount of federal income tax to be withheld. Refer to the procedural instructions of the retired pay activity concerned regarding the additional withholding of federal income tax.

250203. FITW for an annuitant will be computed on the basis of "married, three exemptions" unless the annuitant elects no withholding or submits a certificate requesting a different rate of withholding.

250204. Nonresident Alien

A. Service Outside the United States. Members who are nonresident aliens are not liable for United States income tax on income received for service outside the United States, and such income is not subject to FITW. Service by a nonresident alien member assigned to a base outside the United States, or to a U.S. vessel (other than vessels normally used in coastal waters only) on which the enlisted members are entitled to sea duty pay, is considered service outside the United States.

B. Service Within the United States. For purposes of this paragraph, the United States includes the 50 states and the District of Columbia. Service on board a coast-wide vessel is regarded as service within the United States. Duty on the Great Lakes, the Mississippi River, and other inland waters of the United States, or while serving on a vessel normally operating within the territorial limit of the United States, is considered service within the United States. Gross pay for this service is subject to FITW.

C. FITW Computation

1. Step 1. Compute the member's FITW wages from gross retired pay as if he or she is a United States citizen.

2. Step 2. Determine the ratio of the number of days of active duty inside United States to the total number of days of active duty.

3. Step 3. Multiply FITW wages determined under Step 1 by the ratio determined under Step 2. The resulting amount is subject to FITW at the rate of 30 percent, without being reduced by withholding allowances of personal exemptions, unless the member is a citizen of a country that has a tax treaty with the United States. Use the withholding rate specified in the treaty if the member files TD Form 1001 with the supporting DFAS Center and the Director of International Operations, Internal Revenue Service, Washington, DC 20225. Note that when the member files an income tax return, the IRS will refund any excess tax withheld. A member in this status is responsible for reporting the income to the country of the member's citizenship and paying any tax owed on this income.

2503 RATES OF FEDERAL INCOME TAX WITHHOLDING FOR ONE-TIME PAYMENTS

Special computation rules have been developed by the IRS for the computation of FITW for one-time payments. These rules differentiate whether the taxable portion of a one-time payment must be lumped together with normal taxable pay or should the taxable portion of a one-time payment be treated separately. The rules are differentiated by whether the taxable portion of the one-time payment is made concurrently with a regular payment, or made separately from the regular monthly payment.

250301. One-time payments made concurrently with a regular monthly payment. When a one-time payment is combined with the regular monthly payment, FITW may be computed at 28 percent on the one-time payment portion if it separately is identified and if tax is withheld on the monthly payment at the appropriate rate. (See Revenue Ruling 82-200 (reference (ea)).)

250302. One-time payment made separately from a regular monthly payment. There are two computation rules available. The difference between the rules is not the type of payment, but whether federal income tax previously was withheld from the member's regular monthly payment.

A. When federal income tax was not withheld because the member's exemptions exceeded the taxable portion of retired or retainer pay, the one-time payment must be included with the wages paid for the last pay period (in the same calendar year) or with the wages paid for the current pay period. The amount of withholding is then computed as if this was a single payment.

B. When federal income tax has been withheld there are two alternatives:

1. Combine the taxable portion of the payments, as in subparagraph 750302.A., above, and compute the aggregate withholding amount. Then subtract the amount of federal income tax previously withheld or the amount scheduled to be withheld for the current period. The excess amount then would be deducted from the one-time payment.

2. Withhold a flat 28 percent of the taxable portion of the one-time payment. This amount is computed without regard to the withholding exemptions claimed and cannot be used when there was no federal income tax withheld from the regular monthly payment. (See Revenue Ruling 66-190, 1966-2 CB 457 (reference (eb)).)